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Foreign Flags in China's Internal Navigation

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AMERICAN COUNCIL
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FOREIGN FLAGS IN CHINA'S INTERNAL NAVIGATION

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FOREWORD

Most of the problems arising from the special rights of foreigners in China have grown up gradually through the accretion of specific privileges and treaty rights relating, each, to one locality or geographic area. One of these problems, involving rights of navigation on China's inland waterways and their control, has features of particular complexity in that practical questions of inland transportation have frequently assumed an urgency that called for immediate arrangements between local commercial groups and government authorities, unrelated to the slow processes of international negotiation. Unsettled political conditions have further contributed to the use of measures of control which, while meeting immediate traffic requirements, have contributed to the difficulty today of dealing with the situation as a whole in a manner fair to all the interests concerned, and not least to the understandable desire of the Chinese Government itself to regain control over the country's internal navigation. Not only rights of passage and responsibility for the upkeep of shipping facilities, but the prosperity and status of a number of commercial communities, both Chinese and foreign, are involved in these problems.

Questions relating to transportation have played a large part in previous Institute discussions, both of China's international relations and of her economic development. At an early stage of the preparations for the program of the 1931 Conference at Hangchow, the control of coastal and inland navigation was scheduled as one of the topics recommended for consideration by the round table on the international relations of China. More recently, several of the data papers prepared for that conference indicate that the administration of inland waterways is likely also to come up as a matter of first importance for the growth of China's foreign trade and, indeed, the development of her own natural resources.

The present paper was prepared by Professor J. P. Chamberlain, at the request of the American Council, to give—without more than passing reference to some of the economic and political problems referred to above—a summary statement of the growth and present status of China's internal navigation in relation to foreign shipping. It is one of a series of publications recommended by the American

Council for study in connection with the forthcoming conference of the Institute at Hangchow. But presentation of this paper for consideration in the program does not imply that either the Institute itself or the American Council assumes responsibility for statements of fact or opinion contained in it. These remain as much the personal expression of the author as would be the case if the contribution were communicated orally.

FOREIGN FLAGS IN CHINA'S INTERNAL NAVIGATION

THE LAW

NORMALLY the trade between two ports in the same country is under the complete control of the government of that country. Under international law no foreigner can claim the privilege of this kind of navigation, usually termed "cabotage," and in practice it is usually reserved to vessels flying the national flags. The United States is very strict in its reservation of its coasting trade to national ships. Rivers within the territory of a single country are also entirely under the jurisdiction of that country; and control over them, including the right of navigation, is exclusively vested in the riparian country. Foreigners can claim no right to navigate them under general principles of international law. If, however, rivers form the boundary between two countries they may be navigated by the subjects of either country, though this right does not extend to nationals of other countries.[1] Any right by foreigners therefore to share in cabotage and to navigate national rivers must be assured to them by treaty. They can lay no claim to it under international law.

In China where only specified treaty ports are open for the residence and trade of foreigners, a local distinction has grown up between what is called "coast trade" and "inland waters navigation." Coast trade signifies the trade between open or treaty ports; inland waters navigation, trade to places other than treaty ports. Since a number of treaty ports are up the rivers of China, coastal navigation may extend up the rivers, and technical inland navigation may be along the coast to non-treaty ports. This difference has led to a difference in treatment between the treaty practice in respect to carriage of passengers and goods between open ports, and between open ports and others, or between ports not open.

In China during the ninteenth century foreigners have gained by treaty extensive rights to trade in their own ships between Chinese ports, even if those ports lie far up national rivers. This right is limited by the terms of the treaties and extends only to ports expressly

[1]Bonfils, *Detroit International Public*, Sec. 518, 521; Hall, *International Law*, 8th Edition, Section 39; Lawrence, 7th Edition, p. 198; Moore's *Digest of International Law*, Vol. I, pp. 625-626.

included within the terms of the conventional arrangements. The equivalent rights to share in cabotage and to navigate national rivers of other contracting powers, is not given to China, so the treaty provisions granting this privilege to foreigners are among the unequal treaties whose denunciation is demanded by the Chinese. The recent convention of the Kuomintang in Nanking has declared that "foreign navigation rights in inland rivers should be abolished."

Trade between the western powers and China had begun in the sixteenth century and continued spasmodically at different ports without treaty basis. In the early part of the eighteenth century the English East India Company opened a regular trade with Canton. Annoyed at the exactions upon them through the Canton merchants and government, the company tried to open trade at other ports, but in 1757 Canton was made by an Imperial edict the sole port of entry for foreigners, and in 1782 another edict gave to a body of merchants in the Canton Co-Hong sole control of the foreign trade and created them as the sole intermediary for communications between the government and foreign traders. Since there were no treaty limitations upon the Chinese Government, it was free to charge whatever tonnage dues it pleased for vessels in the river, to regulate navigation and to govern the conduct of merchants. The heaviest, however, of the exactions levied by the government on foreign trade were not directly felt by the foreign merchants, since they were paid by members of the Chinese Co-Hong, the monopoly. These were, however, reflected in the cost of goods to the merchants and in the prices paid the merchants for their wares, since there must be a sufficient profit left to the Chinese merchants to enable them to keep something for themselves after the official exactions had been provided for. The Chinese monopoly was, however, faced by the monopoly of the East India Company which alone did business with England and which licensed other Englishmen for the trade between India and China, so that the Chinese monopoly had to do with another monopoly, not a group of individual merchants. In spite of the cost of doing business and the limitations arising from the Chinese monopoly the trade in Canton was profitable. American ships began to come in at the close of the Revolutionary War and soon played an important part in the trade.

At the end of the eighteenth century the British Government made an attempt to get in touch with the Chinese Government and to make a treaty, but was unsuccessful, and it was not till after the abolition of the monopoly of the East India Company in 1834 that the

British Government took an organized interest in Chinese commercial matters by sending an official, called the chief superintendent of trade, to Canton. Even then it was not till the Opium War was ended by the Treaty of Nanking, in 1842, that foreigners gained treaty rights. For the purpose of this study the principal objects of the foreign merchants were the extension to other points than Canton of their right to reside and do business, the privilege of using their own vessels to transport goods between Chinese ports, even those closed to foreign residence, and finally permission to enter the interior of China for trade. The increase of the likin or internal transit taxes imposed by the provinces was looked upon by the merchants as a decided hindrance to trade, especially as these taxes were not fixed and definite but were the result of bargaining between the tax officials and the owner of the goods. Obviously a Chinese acquainted with the ways of his countrymen and supported by his guild would be much more effective in such bargaining than a foreign merchant. The treaties throughout show the persistent pressure on the part of the foreign merchant to regularize his situation in regard to these internal taxes which became more serious as the likin internal transport taxes increased after the middle of the century. Eventually the privilege of navigating the interior waters of China, first with hired native boats, then with steamers, was obtained.

The process of securing treaty sanction for the wishes of foreigners was long. The Treaty of Nanking opened five ports: Canton, Amoy, Foochow, Ningpo, and Shanghai, to British subjects and their trade. The Chinese Government agreed to abolish the monopoly of the Hong merchants and to permit British merchants "to carry on their commercial transactions with whatever persons they pleased." As a result, therefore, British merchants had the market at the treaty ports thrown open to them, both for buying and selling, but they were not permitted to do business in the interior. They were therefore compelled to trade with Chinese merchants at the treaty ports and were not able to develop their trade in the interior. Their interest in the interior trade, however, appears in the limitation of likin, internal transit tax, on British goods. Once the fixed customs tariff had been paid, merchandise might be conveyed to the interior by Chinese merchants on payment of a fixed transit duty which was afterwards set as "the present rates which are upon a moderate scale."[2] Other foreign countries, led by the United States and France, followed England's

[2]Declaration of Hong Kong, 26 June, 1843, Hertslet, *China Treaties*, No. 2.

lead, and the regime of treaty legalization of the privileges of foreigners had begun.

The most-favored-nation clause, which appeared in these and subsequent Chinese commercial treaties, assured whatever advantage was given to the nationals of one country to all. This provision made available to all foreigners having the advantages of the clause, privileges which any other government secured. As a result, foreign traders felt a community of interest in trade rights of the country.[3]

The Treaty of Tientsin of 1858 extended the rights of the merchants. Five more ports were opened on the coast, and the foreigner made his first legal step to trading in the interior of China. British merchant ships were expressly authorized to trade upon the Yangtse to the ports which were to be opened up the river. Only the port of Kiukiang was mentioned in the treaty itself, but by subsequent agreement Hangchow and Kiukiang up the river were opened. Having thus open ports scattered along the coast and up the valley of the Yangtse, the right to carry goods in their own vessels between these ports became of importance and was established, though in not very definite language, by the Treaty of Tientsin which authorized foreign merchants "to proceed to and fro [between treaty ports] at pleasure with their vessels and merchandise."

A treaty with Denmark in 1863 legalized the carrying of Chinese products from one treaty port to another, so that henceforward there could be no question of the carrying trade as between open ports, but the right was not extended to other ports in the country. By the Treaty of Tientsin British merchant vessels, however, were expressly prohibited from resorting to other than open ports or to carry on clandestine trade along the Chinese coast. Any vessel violating the provision was expressly declared subject to confiscation by the Chinese Government. Another step was made to opening the interior to foreigners by an authorization of British subjects to travel under passports for pleasure or trade in all parts of the country. It is expressly provided that British subjects could hire persons or vessels for the transport of goods or passengers at a rate which should be fixed between the parties without interference of the government. No monopoly in respect to the boats or porters or coolies engaged in carrying goods might be granted to any parties. Thus the British merchant made a second step away from the control of monopoly of trade, for he not

[3]Tsung-Yu Sze, *China and the Most-Favored-Nation Clause;* Joseph, *Foreign Diplomacy in China,* pp. 30-31.

only was free to trade with merchants in the ports, but might himself go to the interior to purchase goods and might himself hire the means of transport of these goods to the coast. He was not, however, given the privilege of operating steamers or even boats under his own national flag, but must use Chinese owned boats. Under this provision of the treaty the interior waterways of China and the cities situated on them were open to foreign trade. As the foreign merchant was freed by the Treaty of Nanking from dependence on the Co-Hong monopoly at Canton, so he was freed by the Treaty of Tientsin[4] from merchants in the treaty ports and could himself do business in the interior, though he could not reside there.

Reciting that the transit duty established by the Treaty of Nanking was not being observed, but that arbitrary transit duties were imposed by provincial authorities on goods going in and out of the country, it was again agreed that any consul might require that the amount of inland duty on goods brought to treaty ports for export or upon imported merchandise sent to the interior, between his consular port and inland markets named by him should be fixed. For the further protection of British subjects the Chinese Government agreed that a British merchant, by paying a tax to be fixed at a subsequent conference, either at the first barrier coming to the coast or at the harbor of import, should receive a transit certificate exempting his goods from all further inland charges. Thus a foreign merchant, it was expected, would be freed from exactions by Chinese authorities at the different points at which provincial transit dues were to be paid.

The amount of the charge was to be as nearly as possible 2½ per cent. ad valorem and was to be fixed at a conference at Shanghai. This conference was held on the 8th of November, 1858. It is notable in excepting opium from the general right of foreigners to trade in the interior. That dangerous product was maintained as a Chinese monopoly, to be carried into the interior only by Chinese as Chinese property, a foreign trader not to be allowed to accompany it. The transit dues on opium may be arranged as the Chinese Government sees fit. Copper cash, rice and other grains were not allowed to be exported, but could be carried by British subjects from one open port of China to another. The rules of trade adopted at Shanghai make it clear that the right to buy goods in the interior and have them free from transit duties on payment of the single tax is only a right to buy goods for export, since it expressly makes goods liable to confiscation

[4]Hertslet, *op. cit.*, No. 6.

if they are sold while in transit. Another charge which was much objected to by foreigners was dealt with in an article fixing the amount of tonnage dues which could be charged on British merchant vessels in Chinese harbors. The amount of the coastal trade is obvious from the fact that there was a different due charged on vessels of over or under 150 tons' burden.

Navigation on the Yangtse was further extended by the Chefoo Convention of September 13, 1876.[5] The Shanghai merchants had been urging that the river be opened and steamers be given freedom to carry goods and passengers to all ports. "As a measure of compromise," certain points on the river were opened as ports of call at which steamers might touch to land or ship passengers or goods, but only by native boats, and subject to the regulations in force affecting native trade. Foreign merchants were not allowed to reside at these points. Further treaty ports were opened by the Convention.

In 1890 an additional article to the Chefoo Convention expressly opened Chungking beyond the Yangtse rapids, as a treaty port, and authorized British subjects to charter Chinese vessels, "or to provide vessels of the Chinese type," for the traffic between Ichang and Chungking through the gorges.[6] Merchandise carried by such boats was to be placed on the same footing as that carried by steamers to Ichang. Chinese type vessels entitled to carry the British flag pay tonnage dues in accordance with treaty regulations. These vessels and those chartered by Englishmen must register at the Customs House and fly a special flag. The effort to keep out steamers is clear from the provision that "when once Chinese steamers carrying cargo run to Chungking, British steamers shall in like manner have access to the said port."

By the Treaty of Shimonoseki (1895) steam navigation for vessels under the Japanese flag for the conveyance of passengers and cargo was extended on the upper Yangtse River to Chungking and on the Woosung River and Canal to Soochow and Hangchow.[7] An extension of legal rights to foreign steamers in the West River and up to Canton came under the treaty of February 4, 1897, with Great Britain.[8] Certain treaty ports were opened, and steamship navigation was made free between Hongkong and Canton and Samshui and Wuchow. Four other ports were opened as "ports of call" for goods

[5] *Ibid.*, No. 12.
[6] *Ibid.*, No. 18.
[7] MacMurray, *Treaties and Agreements with and Concerning China*, 1895/3.
[8] *Ibid.*, 1897/1.

and passengers. Under the most-favored-nation clause these advantages were secured to all of the nations having this clause in their treaty and were not limited to the particular nation with which the treaty was made.

The pressure for the opening of the internal waters of China for steam navigation that had been steadily exerted by the foreign merchants, finally won its most signal victory by the promulgation, through the Chinese Government, of the Inland Waters Steam Navigation Regulations of 1898. The regulations were the result of insistence on the part of the British Government which had an advantage on China as a result of the Chinese refusal to carry out a loan, an arrangement already accepted, and to give certain other advantages to Great Britain. In form the regulations were a unilateral declaration of the Chinese Government, but the position of Great Britain was shown by the insistence of the British Minister to review them, which resulted in an amendment of the regulations first promulgated. The regulations opened the inland waters of China to all steamers, native or foreign, which, however, must be registered at the custom houses. Special detailed regulations for the Yangtse River authorized merchant vessels of the Treaty powers expressly to trade at treaty ports and at specified non-treaty ports and to land passengers and baggage at other specified ports, though shipment and discharge of cargo was only permitted at the two first classes of ports.[9] Similar provisions were made for the West River in Southern China, where the ports of call at which goods and passengers could be landed or shipped and the passenger stations at which only passengers and their baggage could be handled were set forth.[10] The regulations of 1898 were given treaty sanction by the treaty with Great Britain of September 5, 1902.[11] Certain amendments were made which were annexed to the treaty. It was expressly provided that the rules should remain in force till altered by mutual consent. One of the objections of the Chinese Government to steamer navigation inland appears in one of the new rules which declares that inland waters "not hitherto frequented by steamers" should only be opened gradually "as may be convenient to merchants and only as the owners of steamers may see prospect of remunerative trade." An intent to run steam vessels on waterways on which they had not hitherto been operated must be reported to the Commissioner

[9] *Ibid.*, 1898/18.
[10] *Ibid.*, 1904/3.
[11] *Ibid.*, 1902/7

of Customs at the nearest open port, who must report the matter to the Minister of Commerce who in turn "in conjunction with the Governor General or Governor of the province, after careful consideration of all the circumstances of the case, shall at once give their approval." The reason for this delay was said to be the importance of not disturbing people living inland by the advent of steam vessels. Another protection of Chinese labor was the provision that the helmsman and crew of any boat towed by a steamer must be Chinese. The Chinese-American Commercial Treaty of 1903[12] declares that, the Chinese Government having in 1898 opened the inland waters of the Empire to commerce, Americans might engage in such commerce on equal terms with the subjects of any foreign power, and that the Chinese Government agrees to consider "amicably and to adopt such modifications [of the Regulations] as are found necessary for trade and for the benefit of China" in case either party considered it advantageous that they be modified. In the Sino-Japanese Treaty of 1903, the Chinese Government expressly agrees that "any Japanese steamer capable of navigating the inland waterways, upon reporting at the Imperial Maritime Customs, may proceed for the purpose of trade from a treaty port to places inland, so reported, on complying with the Original and Supplementary Regulations for Steam Navigation Inland."

THE PRACTICE

In practice, foreign vessels had no right under international law to carry on trade between Chinese ports, and under the treaties this right was strictly limited to trade between open ports until the institution of ports of call on the rivers. Even in the early treaties there was no clear right to carry native produce from one open port to another, and the Treaty of Tientsin laid down a very severe penalty for foreign vessels frequenting other than treaty ports. English and American ministers did not hesitate to instruct their nationals that they had no rights at non-treaty ports, and that they could not be supported in the illegal traffic which had grown up, and was rapidly developed in the first half of the ninteenth century.

There were many reasons why foreign vessels were used in the coast trade of China, and even in the trade up the rivers. The foreign type of vessel was far superior to the Chinese junk in speed, in seaworthiness, in sailing qualities. The junks made good progress to the

[12] *Ibid.*, 1903/5.

north during the summer and to the south in autumn and winter, but they were hard to navigate against the prevailing winds. Steam appeared, too, early in the century. In 1836 an English firm tried unsuccessfully to start a small steamer on the run from Hongkong to Canton, and with the improvement of steamers, the sea-borne junk traffic was doomed.

In addition to the superiority of the faster and larger foreign type vessel, there were other causes for the use of the foreign flag which gave a great advantage to the foreigner. With the increasing disorders which began in 1820 and culminated in the Taiping Rebellion, there was a revival of piracy, which is even today a serious problem in southern Chinese waters. Depredations on Chinese junks were very common, so that there was no safety in forwarding goods, either Chinese or European owned, by native vessels. As the disorders increased and the more or less organized rebel forces and Imperial troops became very active, there was added to the danger of pirates the danger of seizure by the soldiers or war vessels of either side. Pirates, rebels and Imperial soldiers had some respect for foreign shipping. The pirates had learned the danger to them of foreign warships revenging attacks on their merchantmen. The rebel and Imperial forces were restrained, to a certain degree at least, in interfering with vessels flying the foreign flag. Furthermore, all parties had learned to their cost the powers of resistance of foreign vessels with foreign crews. Even foreign officers with native crews were a far harder nut to crack than were Chinese-manned ships or vessels.

As a consequence, even Chinese citizens registered their vessels at Hongkong and secured British registry with the right to fly the British flag and put, at least, an English captain on board. The Chinese owner, sailing under the British flag and with a British captain, was able to carry on trade which would otherwise have been extremely hazardous. The British navigation laws were abolished in 1850, and registration of vessels in Hongkong was easy, carrying with it the privileges of British nationality; in addition, consulates of other nations issued to Chinese vessels permits to fly their flags. In 1854 it was found "that the American flag was being abused through the negligence or bad faith of consuls by its illegal transfer to Chinese and other foreign vessels."[13]

Thus both because of the superior sailing qualities and size of

[13]Morse, *International Relations of the Chinese Empire,* p. 409; John W. Foster, *American Diplomacy in the Orient,* p. 220.

foreign ships, and because of the protection of the foreigner, it is not surprising that the coast seaborne traffic came rapidly under foreign flags. The Consul at Ningpo in 1857 writes:

> In consequence of the prevalence of piracy upon this coast a considerable share of the carrying trade of China is now carried on in foreign bottoms . . . These vessels have been allowed to enter freely and discharge their cargoes and reload again at the ports of Wauchan and Pingouyan (or Bingen) in this province, and also at Swatow and other ports in the provinces of Fuh-kien and Canton. This trade promises to increase and is worthy of important consideration, not only as capable of furnishing employment to quite a number of American vessels that are sometimes detained waiting for cargoes but as tending to throw open to foreign trade ports in China to which foreigners are not allowed access by existing treaties.[14]

There is an interesting example in diplomatic correspondence of what was going on during the period when the Taiping rebels held a very large part of the Yangtse Basin. Trade in Chinese boats in the disturbed districts was very difficult; so the Chinese officials authorized Shanghai merchants to send small river steamers up river and into the water courses around Shanghai, to bring out the native produce and take into the country the foreign goods and silver which was needed to pay for it. After the suppression of the Rebellion in 1865, the Chinese authorities forbade the use of the steamers in interior waters, and the Shanghai Chamber of Commerce vigorously protested. They claimed that the right given under the Treaty of Tientsin to use boats to bring their goods back from the country should include these steamers, but the American Chargé at Peking ruled that the treaty simply gave merchants the right to hire Chinese boats and did not apply to steamers.[15]

The introduction of steam navigation on the rivers increased the advantage of foreign built and operated vessels over Chinese junks, but they also increased the difficulties of the Chinese Government. The American Minister, writing home in 1868, says:

> The opening of the River Yangtse to steamers in 1860 drove a strong competition with the boats already in those waters; and in their strife hundreds of boatman succumbed to want and temptation. Even the native merchants who sent their freight on the steamers bemoaned the destitution of these boatmen thus suddenly turned out of their old course of life and said that many of them had to join the rebels to get food.[16]

[14] *Commercial Relations of the United States.* Abstracts from Consular Letters, 1857, p. 198.

[15] *U. S. Foreign Relations,* 1886, p. 510-511.

[16] *Ibid.,* 1868, p. 516.

There had already been opposition on the part of the shipping guilds to any extension of the rights of foreign ships, and this must have had a very considerable effect in stiffening the position of the Chinese Ministers who steadily refused expressly to authorize the foreign vessels to engage in carrying Chinese goods between Chinese ports. With the extension of trade on the rivers and far into the interior, the opposition of the boatmen's guilds evidently had a very weighty effect on the Government in deciding them to postpone as long as possible the interference with the ancient Chinese organization of transportation and business, caused by the interference of either native or foreign steamers. By the Treaty of Tientsin in 1858 the foreigners gained only the right to hire native boats, and when finally the internal waters were opened generally to steam navigation forty years later, routes not hitherto frequented by steamers could be opened only after authorization by the local officials and only when there was some evidence of the need for the new forms of transportation. Obviously there was an opportunity here for preventing speculative steamboat owners from interfering with the junk trade. In the British Treaty of 1902 the Chinese Government declared that, though navigation for steamers through the rapids of the Yangtse should be improved, nevertheless better steam navigation "could affect the interests of the population" of the riparian provinces. Formerly all boats had been hauled through the gorges by hand. Making it easier for steamers to navigate the gorges would bring devastation to the families of many coolies who would thus be deprived of their secular employment and become potential trouble makers to the local officials. The number of men used in the Yangtse gorges is very great:

> By this route the traffic is carried in junks of varying size. The largest are of a dead-weight carrying capacity of 60 to 70 tons, with a regular crew of 24, and a force of 85 trackers (re-enforced at the worst rapids), engaged for the upward voyage; junks of medium size carry 30 to 40 tons, with a crew of 18, and 45 trackers; small junks carry 14 to 20 tons, with a crew of 10, and 20 trackers. The upward journey is about four weeks in the best time of the year, and in the summer floods three or four months, while the downward journey is three or four days to a week. [17]

Steamers, both Chinese and foreign, now navigate to Chungking, but the channel has not been improved to allow them to dispense with the aid of the trackers' guild, although at a slight expense for blasting out a few rocks, larger ships could operate all the year round.[18]

[17] Morse, *The Trade and Administration of China*, p. 338.
[18] *China Year Book*, 1929-30, p. 777.

In addition to the great influence of the boatmen's and shippers' guilds and the natural resistance to the disruption of a long established economic life which made an objection to the use of steamers, Chinese as well as foreign, on the inland waterways, there was a very definite objection to the use of foreigners and foreign vessels. This arose from the extra-territorial privileges claimed by foreign vessels and foreign officers. Wherever a foreign vessel touched, even at a port where she had no legal right to be, she and the foreign members of her crew nevertheless were protected against the direct action of the Chinese authorities and were subject to the jurisdiction of her consul. Even the Chinese members of her crew gained protection from the fact that she flew the foreign flag. Indeed, the Chinese authorities had had reason enough to dread the possible difficulties that might arise from this situation, for the second trade war with England arose over the attempt of Chinese officials to arrest Chinese members of the crew of the Arrow, a Chinese owned vessel registered at Hongkong and flying the British flag. Even though the Chinese Government was entitled to condemn foreign vessels found in other than treaty ports and fine them for breaches of regulations, they could exercise this power only through the consul of the vessel's flag with all possible rights of appeal involved in the exercise of consular jurisdiction.

Obviously, this protection against the action of the Chinese officials gave an advantage to steamers under the foreign flag and would induce Chinese capitalists desiring to operate steamers to do so under the cover of a foreign name. Morse says that there are cases "where a foreigner with no capital—not a penny—opened branch firms in several places and ran steamers in his name and under his flag, but had no share in the working of the business and was never heard of, except when it became necessary to call a case out of the Chinese magistrate's yamen to the foreign Consular court."[19] Where there is added the protection against piracy and military requisition, it is not surprising that some Chinese still try to get foreign registration, but there has been a reaction against this practice recently. The China Year Book for 1929-30 says that in recent years regulations governing registration and the flying of foreign flags have been more carefully enforced, with good results. The extent of the practice is evident from the comment of the China Year Book that when the Italian Consul at Hangchow ordered the Italian flag to be taken off Chinese

[19]Morse, *The Trade and Administration of China*, p. 211.

owned vessels in 1928,[20] it entirely disappeared from the upper river; and, partly as a result of this, there was an increase in the number of Chinese vessels at that port from 342 with 106,923 tons in 1927 to 482 with 177,069 tons in 1928.[21]

In spite of the advantages of foreign ships and steamers, Chinese owned ships have increased in the coast trade from Shanghai. In 1873 the British owned 213 vessels doing coast trade between Shanghai and other open ports, the Americans 81 and the Chinese 11, out of a total of 361.[22] These figures do not include junks. In 1881, out of a total of 290 vessels carrying coast trade outwards from Shanghai, 161 were British, 22 American, 40 German and 47 Chinese. In 1928 the Shanghai figures for coast and river shipping tonnage show the British Empire first with 36.99 per cent., China second with 34.9 per cent., Japan 19.85 per cent., America only 0.9 per cent.[23] Chinese navigation was encouraged by the formation, in 1873, of the China Merchants Steam Navigation Company which was given a subsidy by the government in the monopoly of carrying tribute rice at twice the price charged by other ships. The company got into financial difficulty during the civil war and was taken over in 1928 by the National Government.[24] Many more Chinese vessels are registered for inland water steam navigation, and the proportion of Chinese to foreign vessels has greatly increased since 1904. In 1928 there were 30 Chinese vessels out of the 70-odd in commission on the Upper Yangtse. Of the others, eleven were American, fifteen British, six Japanese, the rest scattering.[25]

The movement in favor of keeping foreign flags out of Chinese internal trade finds frequent echoes in Chinese publications. In the *Chinese Economic Journal* of 1930,[26] it is said that the Chinese Government intends to abrogate the right of foreign vessels to ply between inland ports. Chinese chambers of commerce, according to the same authority, are active in urging the government to abolish inland navigation for foreigners. The Shanghai Navigation Association in 1929 requested the government and the Central Executive Committee of the Kuomintang to take steps to abolish the privilege of inland navigation

[20] *Annual Trade Report—Imperial Maritime Customs*, 1928; Ichang, p. 2.
[21] *China Year Book*, 1931, p. 97.
[22] *Accounts and Papers*, 1873, Vol. 28, p. 145.
[23] *China Year Book*, 1929-30, p. 287.
[24] *Ibid.*, p. 790.
[25] *Ibid.*, p. 779.
[26] *Ibid.*, p. 416.

enjoyed by foreigners as a unilateral privilege and an obstruction to the development of native shipping.[27] In March 1929, the Vice Minister of Foreign Affairs announced that the government intended to abolish navigation of inland coastal waters by foreign owned vessels, and the representatives of the different ministries concerned met to formulate measures for the restoration of inland navigation to Chinese.[28] The progress of the idea appears in the recent declaration of the Kuomintang Congress, to abolish this one-sided privilege of foreigners, and in a speech by President Chang Kai Shek in the Convention in which he advocated the same object, but said that two or three hundred thousand tons of shipping must be built in the next six years, thus emphasizing the need for more ships if the Chinese flag is to supplant foreign flags in Chinese waters.[29]

The foreign colony objects to the limitation to Chinese ships of Chinese national trade on many grounds. There are not enough Chinese owned vessels to carry the traffic, and it would be necessary to transfer foreign vessels to the Chinese flag. Under present conditions reasonably good prices would be hard to get from Chinese buyers for the transfer of the very large amount of shipping owned by foreigners, which would be of use only in the Chinese river or coastal trade. River steamers and small coasting steamers would be very difficult to use elsewhere, especially those built for the trade, so that any drastic action requiring the immediate transfer of vessels to the Chinese flag, especially at a depressed period, would cause a heavy loss. A dispatch in the London *Times* declares that to abolish foreign navigation in the inland trade would mean a return to junks, as only 32.64 per cent. of the vessels now navigating the inland waters are Chinese, and the Chinese have not enough money to buy the needed boats. This difficulty might be partly overcome by delaying the operation of the prohibition for a period of years, and by liberal provisions in any new regulation authorizing foreigners to own vessels operated under the Chinese flag and subject to the Chinese jurisdiction, thereby permitting the same owners to operate their vessels as heretofore, except that they would be compelled to sell a part interest to Chinese. It is also possible that a large part of the capital invested in foreign shipping will be found to be Chinese. It is argued, further, that if the foreign flag were taken off Chinese rivers and coast traffic, the

[27] *Chinese Economic Bulletin*, 1929, pp. 166, 244.

[28] *New York Times*, March 10, 1929.

[29] *Shun Pao* (*Shanghai Times*), May 9, 1931.

result would be that both the Government and opposition military commanders would seize the ships for military purposes or for their own use. The China Merchants Steam Navigation Company has had difficulty of this sort during the civil wars. Many of its ships were sequestrated by militarists and in some cases actually destroyed,[30] and according to the United States Commerce Reports for 1929, so many Chinese vessels have been commandeered for carriage of troops that few are left in the service.[31] In the serious disturbance in the Yangtse Valley in the campaigns of 1924-25 most of the Chinese operated river boats were "tied up in Shanghai, due to their liability to seizure," although the foreign steamers continued to run.

The customs report from Hangchow notes that the year 1928 opened with only foreign tonnage running on the river, but that the Chinese lines resumed operations in April, and significantly adds that "their reappearance caused a drop in freight rates." At Nanking in 1928 Chinese vessels increased from an aggregate tonnage of 348,376 tons to 2,909,912, due to more stable conditions and the release of vessels previously commandeered. However, disturbed local conditions not only affect Chinese shipping, but they also interfere with navigation of foreign vessels. In 1927, it is reported, foreign steamers ceased running entirely for a period, owing to the disturbed local conditions both on the upper Yangtse and the Siang River.

As in so many of the difficulties confronting Chinese and foreigners today, the problem of extraterritoriality bulks large in the question of control of internal shipping. Many of the advantages which foreign vessels and foreign members of their crews and officers enjoy result from the operation of extraterritoriality. Actions for damages against foreigners or their vessels must be prosecuted before the Consular courts. If a foreign vessel or shipping company is sued for damages under a contract for the transport of goods, or if a Chinese vessel or boat owner claims damages as a result of collision or injury caused to his boat in some way by the navigation of the steamer, the foreigner has the extraterritoriality protection, no matter where the incident occurred. It is the Consular court of the defendant, therefore, that decides whether or not there was fault in the navigation of the vessel. The same is true if there is a criminal action brought against an officer or sailor. The Chinese officials cannot

[30] *China Year Book*, 1929, p. 790.

[31] *North China Herald*, Vol. 173, p. 172 (1928); *U. S. Commerce Reports*, 1929, p. 816.

punish the foreigners but must bring them before the Consular authorities.

Another important consequence to shipping would result from the abolition of extraterritoriality. Many Chinese vessels are commanded by foreigners and have foreign chief engineers. This has long been the custom in China; and it is said that, on the upper Yangtse at least, Chinese vessels will not be insured by foreign companies, unless their commander is a foreigner. These foreign officers, however, are protected by extraterritoriality in the same way as other foreigners. The ship may be proceeded against in the Chinese courts, but the captain can only be held liable by an action before the foreign consuls. If extraterritoriality were withdrawn, it is said, the foreign officers would no longer take commands of Chinese ships and if they tried to continue at their posts would be subject to so much annoyance that they would be unable to continue for any long period. This situation would be rendered much more acute if the privilege of foreign navigation of inland waters were withdrawn, so that the navigation could be carried on only in Chinese vessels, the number of which would have to be greatly increased to handle the traffic and for whom competent Chinese officers and engineers could not be found. In spite of the fears of the foreign community, it is quite possible that the result of removing extraterritoriality would be to increase the wages of foreign officers and would not result in their refusal to handle Chinese ships. Many of them have been long in the service, either in Chinese or foreign vessels, have had their experience in Chinese waters, and it would be difficult for them to get occupation elsewhere.

The advantage to foreign vessels of the protection of their warships, which was so valuable in the early days of the trade, is still an important factor. Not only on the coast, but up the rivers foreign gunboats are constantly active in protecting vessels of their flags, not only against pirates and rebels, but against commandeering by generals of the Nationalist Government. The China Year Book for 1929-30 (page 779) says that conditions on the Yangtse have caused an increase in the Yangtse patrol of foreign gunboats, and on the upper river even foreign ships cannot safely navigate without gunboat protection. During a period when conditions were very bad, the Year Book asserts, "ships could only travel safely in convoy, under escort of a gunboat, or with an armed guard of Marines on board." The use of gunboats against representatives of the Chinese Government is illustrated by a case given in the same volume:

On a recent trip from Ichang to Chungking, three ships of the Yangtze Rapids Steamship Co., escorted by the U. S. S. *Guam,* proceeded as far as Wanshien, where they anchored for the night, when they were boarded by a representative of General Yang Sen, who informed the ships' officers that the ships were required to transport troops to Fowchow. The vessels were not available for military service, and only the presence of the gunboat and the firm attitude of her commander prevented them from being commandeered.[32]

Without the transfer of trade to vessels of the western type from the junks and eventually to steamers, the enormous increase of internal trade in China would have been impossible. In 1874 the total tonnage of coast trade entered and cleared at offices under the Inspector General of Customs, amounted to 7,562,824 tons. By 1912 it had risen to 60,135,015 tons, and in 1927 it was reported as 71,695,212 tons.[33] This trade goes on largely under foreign flags, owing in part at least to the advantages which foreigners enjoy under extraterritoriality, and the protection of foreign gunboats in times of revolution. The mere right to operate ships under foreign flags in the internal trade would be of much less value were the ships so operated, and their crews, subject to Chinese taxes and Chinese law as applied by Chinese courts. On the other hand, the extension of extraterritoriality through ships and crews hundreds of miles in the interior, at points far from ports where consuls are stationed, is serious for the Chinese Government, since as a result its police control is closely limited. It is not surprising that the Government objects to this state of affairs, both because of the difficulty of enforcing its regulations against smuggling, especially of arms, since it cannot search foreign ships except with consular permission, and beause it cannot through its own officials compel observance of river regulations.

The abolition of extraterritoriality would not carry with it necessarily the withdrawal of gunboats. Their right of protection of foreign ships and sailors would be limited, but as long as foreign ships are by treaty authorized to navigate Chinese waters, there would be justification of gunboats, without as well as with extraterritoriality. Foreign ships would still be exempt from commandeering by generals, except on the payment of reasonable compensation, and if gunboats may be legitimately used to protect other foreign lives and property in China, they may be used to protect sailors and ships exercising their treaty rights. If, however, the treaty rights were withdrawn, the ships

[32] *China Year Book,* 1929-30, p. 779.

[33] Morse, *International Relations of the Chinese Empire,* Vol. II, p. 395; *China Year Book,* 1929-30, pp. 174-175.

would no longer be rightfully in the rivers or engaging in coast trade even between treaty ports, and there would be no corresponding right to use gunboats to protect them.

The use of the foreign flag to cover Chinese capital in shipping is an objection to the present regime which must be taken into consideration. It is not easy to meet. Direct registration of Chinese owned ships as foreign may be met comparatively easily, but Chinese may own shares in foreign corporations, even a majority, and the corporation and its vessels would still be foreign. Under the China Trade Act of 1922,[34] an American corporation especially chartered for Chinese trade and giving certain advantages to non-American, in fact Chinese, capital, may not own or operate a vessel unless the controlling interest is owned by United States citizens.[35] By trust arrangements and other devices Chinese capital invested in foreign vessels may be kept within the protection of foreign consuls and foreign laws.

If foreign vessels under foreign flags no longer take part in Chinese internal navigation the result, according to the normal Chinese social organization, will probably be that there will be a strong guild or organization of the owners and operators of Chinese vessels. This is forecast by the action on the Sungari and Amur where, once the Russians were removed, the Chinese navigation interests formed a strong combination. Such combinations would, as seems to be common in Chinese society, form the defense of the ship owners against the Government and would be a normal means of keeping down taxes and exactions by the officials. Disputes in regard to navigation, either between vessels or between shippers of freight and ship owners, would also be handled in the normal Chinese way of arbitration with enforcement, through the respective guilds, of the decisions of the arbitration tribunals, rather than by reference to Chinese courts. It is obvious from the experience on the Sungari and Amur that the Chinese can operate steamers, though it appears that they use Russian masters. But a rather serious question is raised by the point made in the report that there is no proper provision for repairs, and that the vessels are deteriorating. The speculative nature of all business in northern Manchuria may perhaps give a local reason for this situation, and if conditions can be rendered sufficently quiet so that the owners of steam-

[34]Code of U. S. Title 15, Ch. 4. This act gives advantages, especially in regard to taxation, to Chinese capital.

[35]Hongkong Companies Act—Gives advantages to Chinese capital invested in British companies incorporated in the colony of Hongkong.

ships and steamship lines will feel confident that they will be able to operate them for an indefinite period free from confiscation, it is quite likely that the Chinese business man will see to it that proper up-keep is made.

MANCHURIAN RIVERS

The Amur is for part of its course a boundary water between Russian Siberian territory and Manchuria. For the last part of its course it runs through what is now entirely Russian territory. The Ussuri, an affluent of the Amur, now forms also the boundary between the two countries. The Sungari, a tributary of the Amur, wholly within China, is an important highway of commerce which forms a junction at Harbin with the Chinese Eastern Railway. Under the usually accepted rules of international law, the Sungari being a wholly Chinese river is entirely within Chinese jurisdiction, and no other country has any right to navigate vessels thereon. The Amur and Ussuri, however, as boundary rivers would be navigable by the vessels of both riparian countries, though this would not imply a right to touch at ports of the other country, or carry on cabotage between these ports. The Yalu as the boundary between Korea and Manchuria is subject to the same regime.

By the Treaty of Aigun of 1858, Russia and China agreed that the Amur, Sungari, and Ussuri should be open for navigation to Russian and Chinese vessels, exclusive of vessels of other flags. The Nonni, a branch of the Sungari, was also included among the rivers in which the Russians were given the right to navigate and trade. The Nonni, like the Sungari, was a Chinese stream. It has now silted to such an extent that its navigation by steam is no longer of consequence. This right of navigation included the right to trade in the ports and on the banks of all three streams. After the construction of the Chinese Eastern Railway, the principal fleet on the Sungari River belonged to a subsidiary corporation of the Chinese Eastern, and consequently Russian controlled vessels were the principal traffic carriers on the river and on the Amur. On August 8, 1910, an agreement was drawn up between Russia and China regulating the customs procedure and navigation dues on the Sungari River. The river dues were to be collected under a fixed table instead of the tonnage dues that had previously been charged, but if there was a return to tonnage dues, they must be fixed within specified limits by the Imperial Customs Commissioner of Harbin in consultation with the Chairman of the Chinese Eastern Railway Steamship Company, thus securing the

Russians against any sudden increase in charges on the part of the Chinese authorities.

The Russians secured another navigation advantage in China by the Mongolian Agreement of 1912, in which the Russians were given rights to sail their own merchant vessels in and trade with the inhabitants of either bank of any river entering Russia from Mongolia. Russia also agreed to help Mongolia to improve navigation on these rivers. The principal stream affected by this clause is the Selenga which, running through Northern Mongolia, empties into Lake Baikal in Siberia. This Convention was referred to in the Convention of 1913 between Russia and China by which the Russian Imperial Government recognized Chinese suzerainty over Mongolia.

Only Russians and Chinese were concerned in the Manchurian rivers until the Japanese, beginning to develop their interests in Manchuria, desired to have the right to navigate the Sungari. In the Russo-Japanese Treaty of 1916, Russia agreed that she would not object to the Japanese securing this right, thus waiving any claim that she might have had under the Treaty of Aigun to bar other foreign vessels. The Japanese apparently never got an agreement from China and can base no right on the Russian Treaty other than that Russia does not impede their negotiations. The Manchurian Government in 1924 promulgated a decree depriving Russian ships of the right to navigate the Sungari River. As a result, Russian vessels, except the fleet of the Chinese Eastern Railway, much the largest, were laid up or transferred in some way to the Chinese flag. The fleet of the Chinese Eastern Railway was taken over in September, 1926, by Chang Tso Lin. The Soviet Government protested to Peking, but Chang refused to restore the vessels on the ground that their operation was contrary to the agreement of 1924, and that his action was reprisal for the seizure of eleven Chinese barges at Vladivostok.[36] The Russians have not given up their rights. The Sino-Soviet agreement of May 31, 1924, Article VIII, provides:

> The Governments of the two contracting parties agree to regulate at the aforementioned conference [to settle details] the questions relating to the navigation of rivers, lakes and other bodies of water which are common to their respective frontiers, on the basis of equality and reciprocity.

This provision would not include by strict interpretation the Sungari or the Nonni; but as the Treaty of Aigun has never been de-

[36] *Survey of International Affairs*, 1926, p. 282; *China Year Book*, 1926, p. 823.

nounced, the Russian right to navigate the Sungari would seem still to stand. The Mukden agreement of September 20, 1924, is more explicit. It provides in Article II:

> The Governments of the two contracting parties agree to settle, on the basis of equality, reciprocity and the respect of each other's sovereignty, the question relating to the navigation of all kinds of their vessels on those parts of the rivers, lakes, and other bodies of water, which are common to their respective borders, the details of this question to be regulated in a Commission of the two Contracting Parties within two months from the date of signing the present Agreement.
>
> In view of the extensive freight and passenger interests of China on the lower Amur River into the sea, and the extensive freight and passenger interests of the Union of Soviet Socialist Republics on the River Sungari up to and including Harbin, both Contracting Parties agree, on the basis of equality and reciprocity, to take up the question of securing the said interests in the said Commission.

The conference at Moscow between the two governments is, under the Treaty of Peking, the proper body to settle the navigation rights of the two countries.

The navigation of the rivers may become of greater importance, since it would be quite possible to take beans and other produce from northern Manchuria by the Sungari to the Russian city of Habarovsk on the Amur, whence they could go over a Russian railway to Vladivostok. Such a situation would interfere with the business of the Chinese Eastern and perhaps to some extent with traffic to Dairen in which the South Manchurian Railway would have shared.

RIVER CONSERVANCY BOARDS

The great Chinese rivers approaching the coast through an alluvial plain carry large quantities of silt. Their lower reaches are in flat country where the silt is easily precipitated, forming bars and shoaling the stream; and furthermore, the rivers wind across the alluvial plain, which again is deleterious to navigation, both because the distance to the sea is increased and because of the greater probability of silting on the bends of the stream. The most important Chinese ports are situated on such rivers at some distance from the sea, so the improvement of these rivers became early a question of discussion between foreign communities and their governments and the Chinese officials. As the Chinese trade increased, the number of vessels using the ports increased rapidly; and with the greater size of ocean-going steamers the draft of water required was also greater, so that it be-

came essential that in some manner the river channels leading to the great ports be deepened and straightened, and that the works once completed be maintained to preserve and increase the depth of water.

There were two problems involved in the improvement of the Chinese ports and their approaches. One was the problem of money. The Chinese Government was limited to the conventional customs tariff, so that it had no power to increase the tariff to raise money for the purposes of river or harbor improvement. It was further limited by treaty to a specified amount of tonnage dues which could be laid on foreign ships. The conventional tonnage dues were furthermore appropriated to the extent of seven-tenths for lighthouses, buoys and other aids to navigation on the coast and in the rivers. The other three-tenths was devoted to education on western lines. Sir Robert Hart, Inspector General of Customs, taking advantage of a provision of the Treaty of Tientsin, had persuaded the Chinese Government to allow him one-tenth of the tonnage dues for aids to navigation. By 1868, seven-tenths of all collected from foreign ships, and by 1877 seven-eighths of the tonnage dues on Chinese ships entered at the maritime customs, that is Chinese ships of the western type, was used by the maritime customs for aids to navigation.[37] If money was to be raised from foreign merchants especially interested in harbor improvement, it was necessary that the foreign communities themselves should take action, with the approval of their governments represented by the ministers at Peking; and this was the procedure followed. The foreign communities, in addition, had no confidence in the capacity of the Chinese Government to carry out the works without supervision. As they must contribute a large part of the expense of the works, they therefore insisted on a certain share in the executive authority that was to carry them out and, in view of the inability of the Chinese Government to finance the works themselves, were able to secure a large degree of control over the expenditure of the money. With the going into effect of the new treaties, freeing China from the conventional tariff and from limit on tonnage dues and establishing the principle of complete national tariff autonomy, the bargaining power of the foreign merchants, so far as it is based on their control of tariffs, will cease to have effect. However, this will not necessarily destroy the already existing boards, based on international agreements. They are protected both as to personnel and as to their right to receive the

[37]Treaty of Tientsin, 1858, Article XXIX; Hertslet, *China Treaties,* No. VI.; H. B. Morse, *International Relations of the Chinese Empire,* Vol. 2, pp. 160, 425.

amount of the taxes on merchandise handled in the ports and harbor dues specified in the agreements, and also would seem to be protected in their rights in respect to the administration of the river improvements. Conservancy agreements not based on an international convention, however, but as in the case of the Liao River, on a local arrangement consented to by the foreign ministers, have a different position. They appear to be permissive on the part of the ministers, sanctioning the collection of the taxes on foreign goods in excess of the conventional tariff on tonnage dues; and consequently China does not appear bound by agreement to continue them in force. She is not now obliged to have the permission of foreign ministers to levy these taxes.[38]

In addition to the Conservancy on which foreigners are represented, there are a number of Chinese commissions engaged in improving navigation and flood control throughout the country. Many of these commissions were not using modern engineering methods or getting the best use of the comparatively small amount of money which they had to spend. In 1914, the National Government established a bureau, called the National Conservancy Bureau, which was intended to advise on the conservancy schemes and to see to it that the work was carried out by scientific modern methods. It was also hoped that the work would be subordinated to a general scheme of improvement. Owing to lack of funds, this bureau was not able to accomplish very much. Under the name of the Construction Commission, similar work has been set up at Nanking, but this commission has not been successful either in getting control of the Hai Ho or Whangpu conservancy, though it has had some influence in commissions in which the foreigners have not a degree of control.[39]

THE WHANGPU CONSERVANCY

The Whangpu River leads from the Yangtse to Shanghai which is situated about fifteen miles from the mouth of the river at Wusung. There are two bars on the river, one near the mouth, and one about three miles up, which made the navigation of the river increasingly difficult as larger vessels resorted to the port. The Shanghai mercan-

[38]United States and China Treaty Regulating Tariff Relations, July 25, 1928; *Treaties and Agreements with and Concerning China,* 1919-29, Carnegie Endowment for International Peace, Pamphlet No. 50, p. 230.

[39]*China Year Book,* 1931, p. 76; *New Atlas and Commercial Gazetteer of China,* p. VI.

tile community had for a long time agitated for the improvement of the river, inducing the diplomatic body in 1874 to lay the matter before the Chinese Government. In 1880 the Chinese authorities bought a dredge, but the result of the work was not successful. In 1899 the mercantile community at Shanghai proposed that a commission of nine members should be appointed, eight representing the foreign interests and one the commissioner of customs, to carry out the improvements—which were to be paid for by an assessment on property in the foreign settlements, on riverside property in Chinese territory, and on the value of imports and exports, and a tonnage tax on shipping. The jurisdiction of the commission would be far beyond the confines of the settlement, and even the Harbor of Shanghai, running about twenty miles down the river, so that in effect a foreign board was proposed to have jurisdiction over an important work situated wholly in Chinese territory. This project was put through as part of the settlement at the close of the Boxer troubles. The Final Protocol for the Settlement of the Disturbances of 1900 provides that "The beds of the rivers Peiho and Whangpu shall be improved with the financial participation of China," and creates a conservancy board for the Whangpu, to consist of members representing the interests of the Chinese Government and those of foreigners in the shipping trade of Shanghai. Four hundred and sixty thousand Haikwan taels was estimated as needed, to be supplied equally by the Government and the foreign interests. The details were contained in Annex No. 17. There was to be a River Conservancy Board on which there were to be two members representing China, the Taotai, and the Commissioner of Customs; eight members representing the different elements in the foreign community, and in addition "a representative of each country the total tonnage of whose ships entering and clearing at Shanghai and other ports on the Whangpu exceed 200,000 tons a year." This would have increased the foreign representation by seven members on the basis of the figures for 1903. The board was to control the works to be carried out on the river, appoint its own engineer, and manage the funds. In addition, it was to appoint the harbor master of Shanghai and his staff, and organize a police service to secure the execution of its regulations. It was also to have the control of the Shanghai pilot service. Its revenues were to be derived from taxes on the land of the settlement and concession, and all property with water frontage on the Whangpu, taxes on vessels, and a tax of one-tenth of one per cent on merchandise passing through the customs in the Whangpu ports, together with an annual

contribution by the Chinese Government equal to that of the foreign interests.

The Chinese Government had objected to the proposal as an infringement of Chinese sovereignty, although it was ready to allow delegates of the powers control over expenses and employment of agents. Finally, however, it consented. The American Minister declared that there was here no limitation of Chinese sovereignty in the arrangement. The Chinese Government would not appoint its members of the board and tried to get control over the work, promising to pay for it from its own revenue. There was also objection to the tax by the Shanghai land owners, so that nothing was accomplished. It was even suggested by the American Minister that the foreigners appoint their members to the commission, raise the money and proceed with the execution of the improvement. As a result of the objection of the Chinese and of the possibility of trouble between various foreign interests on the board, a compromise was finally arranged under which the treaty plan was abrogated and a new scheme incorporated in an agreement of September 27, 1905, between China and the powers that had been parties to the Boxer Protocol. The Chinese Government itself undertook the work and agreed to defray the total expense from the duties on opium of Szechuen and Soochoufu in Kiangsu. These duties were estimated to produce an average of 600,000 Haikwan taels a year as against a total annual cost of 460,000 taels. The work was to be done under the direction of the Customs Taotai and the Commissioner of Customs at Shanghai. The engineer to control the work was to be selected by China with the approval of the majority of the signatory powers. He might be discharged if his work failed to satisfy the Consular Body. He might also be replaced on the suggestion of a majority of the ministers interested, so that the official life of the engineer responsible for the works, and consequently a considerable degree of control over the works themselves, remained in the foreign diplomatic and consular representatives. The commercial interests of Shanghai paid none of the cost of the work and had no share in its execution. The Taotai and Commissioner of Customs had the power to approve, in addition to the improvement works, any constructions in the river. The engineer appointed under this agreement had the confidence of Chinese officials as well as the foreigners, and the work was carried on successfully.[40] However, it was found that the cost of the improvements was much more than had been esti-

[40]Hawks-Pott, *A Short History of Shanghai*, p. 158.

mated. The government grants were becoming necessary to cover interest and amortization of loans already expended, with no free money for further work or maintenance. In fact, no money was paid by the Government after 1911. This situation was impossible as further work was urgently needed. When Yuan Shi-Kai became President of the Republic, a provisional agreement for the reorganization of the conservancy was signed on April 4, 1912.[41] Under this agreement the Conservancy Board was made to consist of the Taotai, the Customs Commissioner and the Coast Inspector. Thus two of the members were foreigners in the Chinese service. The board was expressly made free of the provisional authorities and directly subject to the Government at Peking, and its jurisdiction extended down to the junction of the Whangpu with the Yangtse. In addition to the government grant of 460,000 taels, the commercial interests at Shanghai agreed to a conservancy tax of 3 per cent on the customs duties and 1½ per 1000 of value on duty-free goods, estimated to produce 300,000 taels, and which in 1930 provided 1,584,845 taels, the sole income of the board. The foreign commercial interests were given official recognition through the creation of a consultative board, to be composed of five members representing the five nations having the largest tonnage entering and clearing at Shanghai and one member appointed by the Chinese Chamber of Commerce. It was left to the minister of each of the five nations to determine the means by which the member of his nationality should be selected. The primary functions of the board were to watch the conservancy on behalf of the commercial interest of Shanghai, to which end they were to be supplied with full information and to be consulted in regard to the appointment of the engineer in chief. In case of a difference with the board, the consultative board could appeal to a consular committee consisting of the Consuls General of the five nations, and further to the ministers if the consular committee could not settle the question with the board. The agreement closes with the statement that it was considered that this representation of the commercial interests would be more effective than if they had members on the board.

In addition to the contribution by the Chinese Government and the tax or "wharfage dues", the proceeds of the sale of public lands reclaimed on the Whangpu were to go into the treasury of the conservancy.

Subsequently the Kiangsu Commissioner of Foreign Affairs took

[41]McMurray, 1912/6.

the place of the Taotai; and the Shanghai Harbor Master, a foreigner appointed by the Maritime Customs Department, has taken the place of the Coast Inspector. In 1929, the office of the Commissioner for Foreign Affairs was abolished, and there was substituted for him a member especially appointed by the Nanking Government.[42] The present tax is 3 per cent surtax on the Shanghai customs gross receipts, 0.15 per cent tax on duty-free goods, and 0.045 per cent tax on treasure. The filled-in lands on the river bring in only a small income. The income of the board for the year 1930, from the conservancy tax, was 1,584,845 taels, and this will increase after April, 1931, "as the result of the surtax levied on the basis of the higher tariff."[43]

The Whangpu convention agreement is expressly mentioned in the Treaties of Peace at the close of the World War, which provide that the arrangement of 1905 and the supplementary arrangement of 1912 shall be applied by the parties.[44]

THE HAI HO CONSERVANCY

The Hai Ho provides an unusually complex problem. It is the common mouth of almost all rivers running through Chihli Province, and is too small to discharge them in time of simultaneous spate. One of the streams, the Yung Ting or Hun Ho, carries a heavy silt charge in time of flood but may be almost dry in the winter. The whole adjacent area is low-flood plain protected by dykes, and water was drawn off indiscriminately by canals. The channels were much restricted and tortuous where they passed through and around Tientsin City. The Hai Ho itself between Tientsin and the sea was tortuous, so killing tidal influence, and was obstructed at the mouth by an enormous bar in the open sea.

The problems were then to straighten the river, so promoting tidal influence and shortening the distance to the sea, to keep out silt, to discharge storm water, and to deepen the bar.[45]

The extent of the bends of the Hai Ho is evidenced by the fact that Tientsin is thirty-six miles from Taku by road, but fifty-six by river. The very serious threat to the future of the port if the river was not improved had caused negotiations between the Governor of Chihli and the representatives of the foreign interests. After the dis-

[42]Feetham, *Report on Shanghai,* p. 257.

[43]*Op. cit.,* p. 259.

[44]Treaty of Versailles, Article 129.
General authorities:
The China Year Book, 1926-31.
Foreign Relations of the United States, 1904, p. 190ss; 1905, p. 123.
Morse, *International Relations of the Chinese Empire,* Vol. III, pp. 357, 380ss.

[45]*China Year Book,* 1926, p. 390.

astrous flood of 1890, surveys were made for the improvement of the river, and the matter was taken up again in 1897 when the Consular Body submitted a plan for the creation of a commission composed of the senior member of the Consular Body, the Customs Taotai and Commissioner of the Imperial Customs at Tientsin, and representatives of the mercantile interests, both Chinese and foreign. The money was to be provided by grants from the municipal councils of the foreign concessions and a small surtax on merchandise, to be collected by the maritime customs. It was at first proposed to levy a special tonnage due on ships, but certain powers objected to this method, and the surtax took its place. The difficulties of dealing with the situation requiring unanimous action of the treaty powers are evident from the fact that a few of the powers could prevent the levying of a tonnage due on which most agreed and thereby prevent its taking effect. On the security of this revenue, a loan of 150,000 taels was raised. The Governor General gave another 100,000. The work was vigorously pushed and nearly finished in 1900.

During the control of Tientsin by the Allies a new conservancy board was established to continue the work that had been begun, composed of a member of the Council of the Provisional Government, the Senior Consul and the Commissioner of Maritime Customs.[46] Funds were provided jointly by the Tientsin Provisional Government and the foreign mercantile communities. The special tax on goods was doubled, and a new loan was raised for further work.

In the Protocol at the close of the Boxer Rebellion the continuance of Chinese financial participation was assured by Article VI, where it was provided that the River Hai Ho "shall be improved with the financial participation of China." Article XI of the same Protocol declares that "The works for the improvement of the navigability of the Peiho, begun in 1898 with the cooperation of the Chinese Government, have been resumed under the direction of an international commission. As soon as the administration of Tientsin shall have been handed back to the Chinese Government, it will be in a position to be represented on this commission, and will pay each year a sum of sixty thousand Haikwan taels for maintaining the works."[47] The commission is now composed of the Customs Taotai, the Commissioner of Customs, a member of the Consular Body (chairman), aided by a Consultative Committee made up of consular representatives of the

[46]*Foreign Relations of the United States,* 1901. Appendix—Affairs in China.

[47]Final Protocol for the Settlement of the Disturbances of 1900; MacMurray 1901/3.

various concessions, excepting the British, which is represented by the chairman of the Municipal Council, the chairman of the Tientsin General Chamber of Commerce, and a representative of the shipping companies. The river dues now are 4 per cent of customs duties plus a shipping tax of 1 mace per registered ton on vessels that cross the bar and 5 candareens per ton on vessels remaining outside the bar.[48]

The difficulty of handling a river like the Hai Ho in piecemeal is evidenced by the fact that it is not considered possible to accomplish much more in the improvement of the channel as long as one of the great affluents of the river, the Yung Ting Ho, continues to pour its silt into the river. The commission has no jurisdiction up the river. It would, furthermore, be a considerable strain on the shipping and mercantile interests of Tientsin to compel them to pay the entire cost of the improvement of the whole river system. A Chinese commission for the improvement of the river above Tientsin and its affluents has been set up.[49]

LIAO RIVER CONSERVANCY IN MANCHURIA

The Liao River is navigable for three hundred miles above the port of Newchwang. It is heavily charged with silt and subject to violent freshets. Its lower reaches are very tortuous, so that it is necessary to regulate the stream, restrict erosion, if possible, and deepen the bar. Schemes to improve the river had been under discussion since 1907, but not until 1914 was an agreement arrived at. The agreement of July 9, 1914,[50] was between the Superintendent of Customs at Newchwang, representing the Manchurian Government, and the Consular Body, representing foreign governments. The agreement was finally approved July 9, 1914, by the diplomatic body of Peking, after it had been promulgated by the Chinese Government, July 1, 1914. Under the agreement a conservancy board was composed of the following members:

> The Superintendent of Customs at Newchwang, who shall be President;
> The Commissioner of Customs at Newchwang, who shall be Vice-President and Secretary;
> The members of the Newchwang Consular Body;
> A member of the Newchwang Foreign Chamber of Commerce;
> A member of the Newchwang Japanese Chamber of Commerce;
> A member of the Newchwang Chinese Chamber of Commerce.

[48] *China Year Book*, 1931, p. 76ss.
[49] *China Year Book*, 1930, p. 2153; 1931, p. 76.
[50] MacMurray, 1914/6, July 9, 1914, p. 1125.

The executive functions of the board were vested in the executive committee, consisting of the superintendent of customs, the commissioner of customs, and one member of the chamber of commerce, who is elected annually by the Consular Body. The other members of the board formed a consultative committee whose duty it was to watch the conservancy proceedings on behalf of the commercial interests of the city and make representations to the executive committee. The board has control of the dredging of the bar and the improvement of the river to the harbor of Newchwang. The funds were to be secured by a surtax on imports and exports and dues on shipping, native and foreign, entered at the maritime custom house. The Manchurian Government agreed to give, free of salary, the services of its chief engineer for the purposes of the conservancy. The chief engineer was at that time a Mr. Hughes, and it was provided that in the event of his ceasing to be engineer in chief of the Manchurian Government, any subsequent appointment to the post should be in the hands of the board. The Chinese Government furthermore agreed to improve the upper Liao River. Considerable work has been done on both lower and upper river.[51]

[51] *China Year Book*, 1929-30, p. 212.

APPENDIX

INLAND WATERS STEAM NAVIGATION

Number of Vessels Registered[a]

Year	Foreign	Chinese	Total
1928	604	2144	2748
1927	662	2195	2857
1924	763	1610	2373
1923	614	1591	2205
1922	507	1586	2093
1921	416	1445	1861
1920	381	1338	1719
1913	194	936	1130
1912	176	845	1021
1911	169	851	1020
1910	184	840	1024
1909	174	802	976
1908	199	749	948
1907	255	609	864
1904	236	517	753

[a]Figures taken from the *China Year Book*, British Consular Reports, and the *Chinese Economic Journal* for 1930.

SHARE TAKEN BY EACH NATIONALITY IN CARRYING TADE BETWEEN OPEN PORTS OF CHINA (Coast Trade)

	1929 Per cent	1927 per cent
Great Britain	44.21	35.32
Japan	18.46	24.84
United States	2.84	1.75
Germany	.40	.48
France	1.15	1.40
Other Flags	2.59	4.68
China	30.35	32.44

TONNAGE OF SHIPS ENTERED AND CLEARED AT OFFICES UNDER THE INSPECTORATE GENERAL OF CUSTOMS[a]

	1864	1874	1883	1893	1903	1912	1927
Foreign trade ..		1,742,977	4,029,840	7,142,612	16,357,104	26,071,482	44,515,573
Coasting trade .		7,562,824	13,560,074	22,176,199	40,933,285	60,135,015	71,695,212
Total		9,305,801	17,589,914	29,318,811	57,290,389	86,206,497	116,210,785
Steamers		8,085,716	16,419,043	28,277,050	55,930,221	81,203,082	
Sailing vessels .		1,220,085	1,170,871	1,041,761	1,360,168	5,003,415[b]	
Total		9,305,801	17,589,914	29,318,811	57,290,389	86,206,497	
British	2,862,214	4,738,793	11,003,296	19,203,978	28,122,987	38,106,732	40,258,049
American	2,609,390	3,184,360	150,703	78,175	559,686	715,001	5,577,115
Japanese	756	480	194,861	566,379	7,965,358	19,913,385	35,745,535
Chinese	64,588	494,237	4,941,728	6,829,950	9,911,209	17,277,407[b]	21,636,391

[a]H. B. Morse, *International Relations of the Chinese Empire*, Vol. II, p. 395; *China Year Book*, 1929-30, pp. 172-176.

[b]Including 4,404,309 tons of Chinese junks entered at the customs.